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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,947	10/14/2004	Chien-Li Hung	LITP0049USA	5946

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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
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EXAMINER

PHAM, VAN T

ART UNIT	PAPER NUMBER
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2627

NOTIFICATION DATE	DELIVERY MODE
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06/26/2007 ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)
	10/711,947	HUNG, CHIEN-LI
	Examiner	Art Unit
	VAN T. PHAM	2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 April 2007.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 14 October 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

Response to Arguments

1. Applicant's arguments filed 04/24/2007 have been considered but they are not persuasive.

Drawings were objected in the previous Office Action mailed on 02/22/2007, which must show every feature of the invention specified in the claims. For example, the "the laser beam of the first wavelength and the laser beam of the second wavelength are emitted from an optical pick-up head"; "the first predetermined signal is an S-curve or an RF level signal"; "the second predetermined signal is an S-curve or an RF level signal". However, Applicant's response "Upon reviewing the drawings, the applicant has noted that the limitation of "the laser beam of the first wavelength and the laser beam of the second wavelength are emitted from an optical pick-up head" is illustrated in the block diagram of Figure 2" and "Figure 4 illustrates that S-curves are created when the laser beams of the first and second wavelengths are emitted". However, the drawings are labeled as Prior Art. By accepting the drawings 2 and 4 show the features above, the admitted prior art discloses all the limitations of claims 1-12 (see below). Nevertheless, the drawings are not accepted because Fig. 1-4 belonged to Applicant admitted prior art.

Applicant's asserted, Chen does not teach the use of first and a second wavelength being emitted on a disk", which is incorrect. Chen discloses the structure of the loaded optical disc could be identified as a CD or DVD or as single-layer or a dual-layer according to a focusing error (FE) signal derived from the detection signals.....On the other hand, the optical disc device might recognize the loaded disc as a CD or DVD by means of the waveforms of a s-curves since the distance between the reflection layer and data layer of CD is usually larger than that of the DVD (see [0004] and noted that it is well-known that a wavelength used for CD is 780nm and for DVD is 650nm).

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every features of the invention specified in the claims. Therefore, the “the laser beam of the first wavelength and the laser beam of the second wavelength are emitted from an optical pick-up head”; “the first predetermined signal is an S-curve or an RF level signal”; “the second predetermined signal is an S-curve or an RF level signal” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-12 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicant admitted prior art (AAPA).

Regarding claim 1, discloses a method for determining existence of a disk in an optical disk drive, the method comprising: focusing a laser beam of a first wavelength, and determining whether a disk is inserted into an optical disk drive according to generation of a first predetermined signal; and focusing a laser beam of a second wavelength, and determining whether a disk is inserted into an optical disk drive according to generation of a second predetermined signal (see Fig. 2 and 4, see Remarks page 5).

Regarding claim 2, discloses the method of claim 1 wherein the laser beam of the first wavelength and the laser beam of the second wavelength are emitted from an optical pick-up head (see Fig. 2, see Remarks page 5).

Regarding claim 3, discloses the method of claim 2 wherein the step of focusing comprises moving the pick-up head for changing a focal point, and the method further comprises receiving a focus error signal from an photo detector (Figs. 2-3).

Regarding claims 4-5, discloses the method of claim 1 wherein the first predetermined signal is an S-curve or an RF level signal or the second predetermined signal is an S-curve or an RF level signal (see Fig. 4).

Regarding claims 6-10, see rejection above of claim 1-5, respectively.

Regarding claims 11-12, discloses the method of claim 1 and 6, respectively wherein the first wavelength and the second wavelength are not equal (see Figs. 2, 4 and the remarks page 5).

Noted: this rejection is made because the response on 4/25/2007 Applicant admitted that Figs. 2 and 4 discloses "the laser beam of the first wavelength and the laser beam of the second wavelength are emitted from an optical pick-up head" is illustrated in the block diagram of Figure 2" and "Figure 4 illustrates that S-curves are created when the laser beams of the first and second wavelengths are emitted".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (US 2005/0058036)'s the admitted prior art.

Regarding claim 1, discloses a method for determining existence of a disk in an optical disk drive, the method comprising: focusing a laser beam of a first wavelength, and determining whether a disk is inserted into an optical disk drive according to generation of a first predetermined signal; and focusing a laser beam of a second wavelength, and determining whether a disk is inserted into an optical disk drive according to generation of a second predetermined signal (see [0004] and Figs. 2A and 2B).

Regarding claim 2, discloses the method of claim 1 wherein the laser beam of the first wavelength and the laser beam of the second wavelength are emitted from an optical pick-up head (see Fig. 1).

Regarding claim 3, discloses the method of claim 2 wherein the step of focusing comprises moving the pick-up head for changing a focal point, and the method further comprises receiving a focus error signal from an photo detector (inherent, see [0004]-[0005] and Fig. 2).

Regarding claim 4, discloses the method of claim 1 wherein the first predetermined signal is an S-curve or an RF level signal (see Fig. 2).

Regarding claim 5, discloses the method of claim 1 wherein the second predetermined signal is an S-curve or an RF level signal (see Fig. 2).

Regarding claims 6-10, see rejection above of claim 1-5, respectively.

Regarding claims 11-12, discloses the method of claim 1 and 6, respectively wherein the first wavelength and the second wavelength are not equal (see Figs. 2, 4 and the remarks page 5).

This Office Action is made Final because no ground rejection is used.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Cited References

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited references relate to method and apparatus for discriminating between different types of discs (US 7,038,986); an optical pickup capable to discriminate between a DVD and CD (US 6,434,094); The EVN signal and the AS1L signal change due to the focal point F for the CD and the focal point F for the DVD, the FE signal has a level change, generally called an S-curve, when the focal point FCD or FDVD passes through the information face of the disk (US 5,831,952); The signal waveform observed in those figures represents a focus error detection feature referred to as S curve and the operation of the shifting the lens is referred to as focus search (US 6,243,341).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN T. PHAM whose telephone number 571-272-7590. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VP

WAYNE YOUNG
SUPERVISORY PATENT EXAMINER